

SENATE BILL 204

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2004 Regular Session
4r1139
CF 4r1891

By: **Senators Stone and Giannetti (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: January 27, 2004
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 25, 2004

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Contradictory Statements - Prosecution and Charging -**
3 **False, Fictitious, or Fraudulent Representations to Legislative Branch Units**

4 FOR the purpose of prohibiting a person from willfully and falsely making an oath or
5 affirmation as to a material fact under certain circumstances; expanding the
6 application of a violation of this Act to include affidavits required by any state,
7 federal, or local government or government official; providing for the
8 prosecution of a violation of this Act involving two contradictory statements in
9 either county in which the statements are made; establishing a certain
10 statement that is sufficient for certain charging documents for a violation of this
11 Act involving contradictory statements; prohibiting a person, in a matter within
12 the jurisdiction of a Legislative Branch unit, from falsifying or concealing a
13 material fact or making or using a false, fictitious, or fraudulent representation
14 under certain circumstances; providing a certain penalty for a violation of this
15 Act; defining a certain term; and generally relating to contradictory statements
16 and false, fictitious, or fraudulent representations to Legislative Branch units.

17 BY repealing and reenacting, with amendments,
18 Article - Criminal Law
19 Section 9-101 and 9-103
20 Annotated Code of Maryland
21 (2002 Volume and 2003 Supplement)

22 BY adding to
23 Article - State Government
24 Section 2-1703

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2003 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Criminal Law**

6 9-101.

7 (a) A person may not willfully and falsely make an oath or affirmation AS TO
8 A MATERIAL FACT:

9 (1) if the false swearing is perjury at common law;

10 (2) in an affidavit required by ANY STATE, FEDERAL, OR LOCAL law;

11 (3) in an affidavit made to induce a court or officer to pass an account or
12 claim;

13 (4) in an affidavit required [as part of a report and return made to the
14 General Assembly or an officer of the government] BY ANY STATE, FEDERAL, OR
15 LOCAL GOVERNMENT OR GOVERNMENTAL OFFICIAL WITH LEGAL AUTHORITY TO
16 REQUIRE THE ISSUANCE OF AN AFFIDAVIT; or

17 (5) in an affidavit or affirmation made under the Maryland Rules.

18 (b) A person who violates this section is guilty of the misdemeanor of perjury
19 and on conviction is subject to imprisonment not exceeding 10 years.

20 (c) (1) If a person makes an oath or affirmation to two contradictory
21 statements, each of which, if false, is prohibited by subsection (a) of this section, it is
22 sufficient [for purposes of indictment] to allege, and for conviction to prove, that one
23 of the statements is willfully false without specifying which one.

24 (2) IF THE TWO CONTRADICTORY STATEMENTS MADE IN VIOLATION OF
25 PARAGRAPH (1) OF THIS SUBSECTION ARE MADE IN DIFFERENT COUNTIES, THE
26 VIOLATION MAY BE PROSECUTED IN EITHER COUNTY.

27 (d) A person who violates this section is subject to § 5-106(b) of the Courts
28 Article.

29 9-103.

30 (A) An indictment, information, or [warrant] OTHER CHARGING DOCUMENT
31 for perjury IN VIOLATION OF § 9-101(A) OF THIS SUBTITLE is sufficient if it
32 substantially states:

33 "(name of defendant) on (date) in (county), on examination as a witness, duly
34 sworn to testify in (proceeding) by (court or other person administering oath) with

1 authority to administer the oath, [unlawfully] WILLFULLY, UNLAWFULLY, and falsely
 2 swore (facts), the matters so sworn were material, and the testimony of (name of
 3 defendant) was willfully and corruptly false, in violation of (section violated) against
 4 the peace, government, and dignity of the State."

5 (B) AN INDICTMENT, INFORMATION, OR OTHER CHARGING DOCUMENT FOR
 6 PERJURY IN VIOLATION OF § 9-101(C) OF THIS SUBTITLE IS SUFFICIENT IF IT
 7 SUBSTANTIALLY STATES:

8 "(NAME OF DEFENDANT) IN (COUNTY), ON EXAMINATION AS A WITNESS, DULY
 9 SWORN TO TESTIFY IN (PROCEEDING) BY (COURT OR OTHER PERSON
 10 ADMINISTERING OATH) WITH AUTHORITY TO ADMINISTER THE OATH, ON (DATE 1)
 11 WILLFULLY SWORE (FACTS 1) AND ON (DATE 1 OR 2)(IN COUNTY 1 OR 2) WILLFULLY
 12 SWORE (FACTS 2), AND THAT THE MATTERS SO SWORN ARE MATERIAL, AND AT LEAST
 13 ONE OF THE TWO CONTRADICTORY STATEMENTS WAS WILLFULLY FALSE, IN
 14 VIOLATION OF (SECTION VIOLATED) AGAINST THE PEACE, GOVERNMENT, AND
 15 DIGNITY OF THE STATE."

16 **Article - State Government**

17 2-1703.

18 (A) IN THIS SECTION, "UNIT" MEANS ANY OF THE FOLLOWING ENTITIES OF
 19 THE LEGISLATIVE BRANCH OF THE STATE GOVERNMENT:

20 (1) A STANDING COMMITTEE AS DEFINED IN § 2-101(F) OF THIS TITLE OR
 21 A SUBCOMMITTEE OF A STANDING COMMITTEE;

22 (2) A LEGISLATIVE COMMITTEE CREATED BY STATUTE OR A
 23 SUBCOMMITTEE OF A LEGISLATIVE COMMITTEE;

24 (3) THE LEGISLATIVE POLICY COMMITTEE OR A SPECIAL COMMITTEE
 25 APPOINTED BY THE LEGISLATIVE POLICY COMMITTEE UNDER § 2-407(B)(3) OF THIS
 26 TITLE; OR

27 (4) ANY OTHER TASK FORCE OR COMMITTEE APPOINTED BY THE
 28 LEGISLATIVE POLICY COMMITTEE OR THE PRESIDING OFFICER OF THE HOUSE OR
 29 SENATE.

30 (B) THIS SECTION APPLIES ONLY TO HEARINGS OR OTHER PROCEEDINGS OF A
 31 UNIT THAT ARE REQUIRED TO BE RECORDED BY THE RULES OF THE HOUSE OR
 32 SENATE.

33 (C) A PERSON MAY NOT, IN A MATTER WITHIN THE JURISDICTION OF A UNIT,
 34 KNOWINGLY AND WILLFULLY:

35 (1) FALSIFY OR CONCEAL A MATERIAL FACT;

36 (2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT REPRESENTATION; OR

1 (3) MAKE OR USE A DOCUMENT THAT CONTAINS A FALSE, FICTITIOUS,
2 OR FRAUDULENT REPRESENTATION.

3 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
4 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
5 IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 2004.